

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant : Dan Bourla  
Appl. No. : 10/724,821  
File : December 2, 2003  
Title : INTRAOPERATIVE BIOMETRY  
Group Art Unit: 2873  
Examiner : Brandi N. Thomas  
Docket No. : 1371DAN-US  
Honorable Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

REPLY

Sir:

Applicant has carefully studied the outstanding Official Action mailed on December 31, 2007. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claims 7 and 10 stand rejected under 35 USC §103(a) as being unpatentable over Fercher (US 5847827).

Claims 8 and 9 stand rejected under 35 USC §103(a) as being unpatentable over Fercher (US 5847827) in view of Patel (US 2003/0214628).

Claims 11-16 stand rejected under 35 USC §103(a) as being unpatentable over Fercher in view of Baumann et al (US 2006/0146283).

In the rejection of claim 7, Examiner states:

Regarding claim 7, Fercher discloses, in figures 1 and 7, a method for performing biometry, comprising: making biometric measurements with a partial coherence interferometry (PCI) device aimed at the eye (30) after removal of the lens therefrom (col.9, lines 51-59) but does not specifically disclose removing a lens from an eye. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to remove the lens from the eye for the purpose of obtaining accurate measurements of the eye.

Applicant respectfully traverses these rejections as improper. The text Examiner quotes, namely, col. 9, lines 51-59 is as follows: "The reference beam 2' reflected at the beam splitter surface 4 is reflected by the deflecting mirror 34 to the interferometer output

with the photodetector 36 and there interferes with the light bundle coming from the measurement arm of the interferometer. The deflecting mirror 34 can be displaced in the axial direction to balance the optical path lengths in the reference beam and measurement beam (calculated up to the measurement focus 13), which is indicated in the drawing by a double arrow.” There is no mention here of “after removal of the lens therefrom” as stated by the Examiner. Indeed it is not understood why the Examiner thinks Fercher is relevant art. As previously explained, Fercher never says anything about removing the natural lens from the eye, not in col. 9 and not anywhere else. Fercher does not even mention once the word “surgery” or “cataract”. It is respectfully submitted that Fercher cannot possibly make the instant invention obvious when Fercher never once contemplates using his method during surgery wherein the natural lens is removed. Fercher’s method is for when the natural eye is still in place and is not contemplated once for use during surgery.

Accordingly, Fercher has nothing to do with the claimed invention at all, and all the claims of record are deemed to be allowable.

Applicant hereby permits email correspondence with Applicant’s representative, especially for clarifying points to lead to allowance of the application. If Examiner believes that Fercher has anything to do with surgery involving removal of the natural lens, Applicant’s representative would be very happy to discuss this.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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